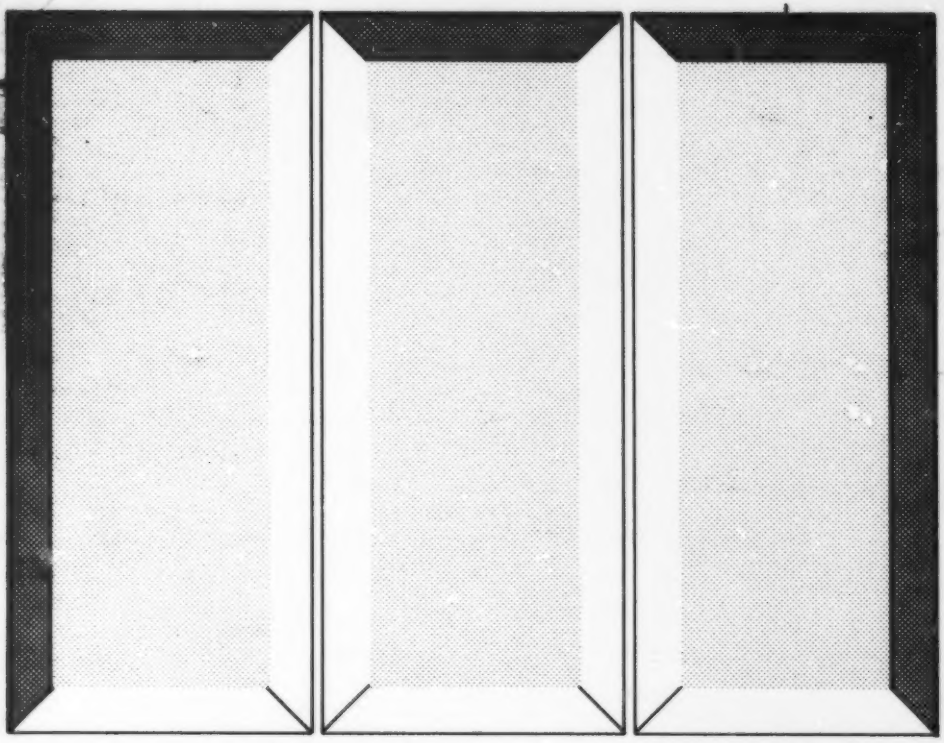
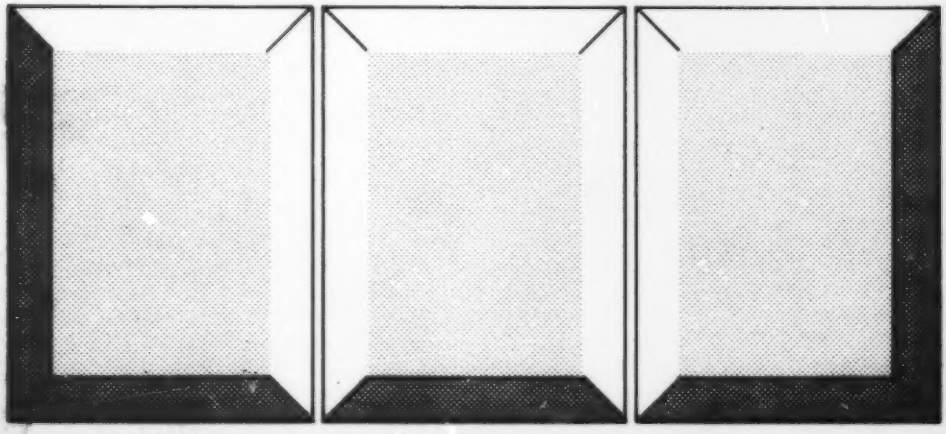


Court of Queen's Bench - County Court Province of Manitoba

History of Courts
Program Activities
Court Room Procedure

Prepared by Allen Rouse Prothonotary and Registrar - 1982



PREFACE

The Prothonotary-Chief County Clerk is most appreciative of the efforts of all those persons who contributed to the original publication of this manual in 1978, and to those who revised and edited his second edition.

As in the original publication, the co-operation of the Chief Justice of the Court of Queen's Bench, the Honourable A.S. Dewar and Chief Judge of the County Court, A.R. Philp, is particularly gratifying and should imbue the clerks of the court with confidence in the accuracy of the courtroom procedures set out.

Greater uniformity of procedure has been achieved in the courts and court officials will continue to follow the procedures set out herein, subject, of course, to specific direction of the presiding judge.

If a court official is advised by a judge of a procedural inaccuracy in this manual, they are to notify the Prothonotary-Chief County Court Clerk accordingly. Consideration and discussion will take place before the appropriate amendments are made.

It is expected all court officials will follow this manual ensuring procedural uniformity in the Court of Queen's Bench and County Courts of the Province of Manitoba.

COURT CLERKS

COURT OF QUEEN'S BENCH

Description of Program Activities

- **To staff civil and criminal trial courts**
- **Taxation of bills**
- **Jury Polls**
- **Maintain index and filing systems**
- **Custody of exhibits**
- **Handling of monies paid into court**

To issue court process ie. statements of claim, petitions for divorce, orders, judgments, subpoenas, writs, warrants, etc.

The province is divided into five judicial districts, each district having a centre or head office. The districts are as follows: (head office in brackets) Eastern (Winnipeg), Western (Brandon), Central (Portage la Prairie), Dauphin (Dauphin), and Northern (The Pas). Each of the aforesaid districts other than the Eastern is manned or headed by a Deputy Clerk of the Crown and Pleas plus at least one assistant.

The Prothonotary — Registrar of the Court, (who is also Clerk of the Peace and Clerk of Crown & Pleas) is the officer in charge of the program for the entire Province with head office at Winnipeg. Ninety per cent of the Courts activity or work in the Province is confined to the Eastern Judicial District.

There are several activities within the program, but each activity is governed, controlled and affected by the general office duties.

The Prothonotary, his deputies, and the Deputy Clerks of the Peace are the signing officers of the Court - in other words these officers are authorized by the provisions of The Queen's Bench Act and the Queen's Bench Rules to issue statements of claim, petitions for divorce, orders, judgements, subpoenas, writs, etc., under their signature and the Seal of the Court.

A large portion of the office duties are performed by the signing officers but most of the routine tasks which are also of great importance are carried out by the remainder of the staff.

Program Information and Description of Operations

Queen's Bench Jurisdiction

The Court of Queen's Bench of Manitoba is and shall continue to be a court of record of original jurisdiction, which possess and exercise all such powers and authorities as by the laws of England and incident to a superior court of record of civil and criminal jurisdiction in all matters civil and criminal whatsoever and shall have, use, enjoy and exercise all the rights, incidents and privileges of said courts as fully to all intents and purposes as the same were, on the fifteenth day of July in the year 1870, possessed used, exercised and enjoyed by any of Her late Majesty's superior courts of common law at Westminster, or by the Court of Chancery at Lincoln's Inn, or by the Court of Probate, or by any other court in England having cognizance of property and civil rights, and of crimes and offences.

The Court of Queen's Bench holds plea in all and all manner of actions suits and proceedings, cause and causes of action, matters, suits and proceedings, whether at law, in equity or otherwise, as well as criminal, civil, real, personal and matrimonial matters. The court hears matters, determines all issues of law and fact, determines controversial matters and administers justice accordingly.

This court has the widest possible authority to deal with almost anything within the scope of the law.

In summary the Court of Queen's Bench registers all legal documents within its jurisdiction, is responsible for the operation of its court and the administration of justice under the Rules of Court, the Queen's Bench Act and all other Statutes pertaining to this said Court.

There are nine signing officers in Winnipeg and at least two signing authorities in each of the other districts in Manitoba. In addition to the signing officers in the Winnipeg Office we have two masters and two referees, two clerk accountants, nineteen clerks of court — male and female, which includes two chambers clerks, three court ushers, the latter being situated in an office near the chambers of the judges. The court ushers are utilized as messengers for the judges of Court of Appeal, Queen's Bench and County Court besides attending court when necessary.

The court officers are supported by a stenographic typing pool of six girls which serves all personnel as required.

The other four Judicial Districts all have two signing officers and support staff but also serve as a County Court and Surrogate Court office.

The Northern Judicial District (The Pas) and Dauphin Judicial District (Dauphin) serve as Provincial Judge's Court and Family Juvenile Court besides their other responsibilities.

There are certain office duties which are of course assumed by the prothonotary alone and same are always his responsibility unless absent from the office.

A brief outline of the duties performed by the Prothonotary and his duties are as follows: Issuing statements of claim, originating notices of motion under the many Acts, petitions for divorce, etc., perusal of same for form, statutory content, proper fees, etc., signing and sealing if satisfactory. Perusing, checking minutely for the content and signing if satisfactory: - judgments, decrees, writs, certificates, orders and many other legal processes issued out of the Court pursuant to the Queen's Bench Rules. Settling minutes of judgment, amending pleadings, certifying documents, exemplifying judgments, attending to opening of commission evidence from other provinces, states or foreign countries, attending as commissioner on the examination of witnesses for use in other courts, attending as commissioner for the Dept. of Attorney-General in taking evidence on Letters of Request or Letters Rogatory for use in foreign countries. Attend to the many varied and complex queries put forth by both the legal profession and the public. Taxation of bills of cost of both litigants and solicitors. Peruse content and form of process under the Criminal Code of Canada: Check, sign and seal, subpoenas, warrants of committal, warrants, writs, certificates, etc. Pursuant to the provisions of the Jury Act: receive, index and retain all jury rolls forwarded by the cities, towns and municipalities of the Judicial District. Attend yearly on the selection board set up for empanelling juries. Draft and issue Venire Facias (precept from court to sheriff) for all assize court sittings held in the judicial districts of the province.

A brief outline of the duties performed by the staff other than the signing officers are as follows:

The drawing of lists for the several court sittings which will be set out later as activities. Making entries in the many appearance books of the documents filed and entered. Attending as clerks of the court on the many court sittings. Diarize and arrange court rooms and ushers for court sittings. Entering in full certain orders, judgments and decrees. Drawing criminal subpoenas, certificates, warrants, reports, certified copies etc. Keeping up to date indexes for all aspects of the program. Drawing cheques, deposits and generally maintaining a suitors' trust account. Looking after the deposit and return of a large abundance of exhibits. Maintaining a proper filing system for the many activities in the operation. A large portion of the office duties entail typing and all members of the staff are typists.

Criminal Courts

After an accused person is committed for trial, the warrant of said committal, all exhibits, transcripts, bail bonds and papers are forwarded to the Court of Queen's Bench office for the judicial districts in which the alleged offence occurred. All subpoenas for witnesses are issued out of the Queen's Bench. A clerk of the court attends the trial, administers oaths, marks and has control of all exhibits, maintains order in the Court and records the minutes of the trial in a permanent record book. If the trial is held before a Jury, the clerk of the court in addition to the aforementioned duties must empanel the Jury. After the trial has concluded, sentences must be drafted, registers completed, reports and certificates drawn. A large exhibit room is maintained for the storage and safe keeping of exhibits which include everything from hand guns, rifles etc. to large amounts of narcotics, cash and valuables. A separate bank account is maintained for cash bail in criminal matters.

Civil Courts

This activity includes chambers sittings, court sittings and civil trials. A clerk of the Court must attend every sitting and record the minutes, administer oaths, maintain exhibits, record judgments and keep decorum in the court room. A large account pursuant to the provisions of The Suitors' Moneys Act is administed by these offices.

Divorce Courts

A clerk of the Court must attend every sitting and carry out the duties as set out for civil courts. These sittings are divided depending upon the grounds upon which the petition for divorce is founded. For example all cases based on mental cruelty or addiction to alcohol or a drug are held on Monday afternoon, cases based on separation or adultery on Monday morning and contested cases on any day of the week that the Court may select.

Master - Referee and Bankruptcy Hearing

Hearings are held before the Master, Referee and Registrar in Bankruptcy pursuant to the provisions of the rules, statutes and jurisdiction conferred by the Court upon such officer. All three titles are held by one person. The said hearings are not attended by a clerk of the court - records are kept by the officer personally.

COUNTY COURTS

Description of Program Activities

- To staff civil and appeal courts
- Maintain index and filing systems
- Custody of exhibits
- Handling of monies paid into court

The County Courts were first established in 1872. Their purpose at that time was to replace the petty sessions court (which historically dealt with minor criminal and civil cases) and initially they were served by judges of the Queen's Bench. In 1882, the province's first full time County Court Judges were appointed to reduce the workload of the Queen's Bench Judges. The history of the County Court is one of increasing jurisdiction. It now has a wide legal and equitable jurisdiction as a separate court with its own judges and has many duties beyond those covered by the County Courts Act. These are specially conferred upon it by various provincial and federal statutes.

The province is divided into sixteen County Court Districts, each district having a centre or head office.

In each court there is a clerk and one or more bailiffs, and for the province there is a Chief County Court Clerk. All clerks must be Canadian citizens, and none shall practice as a barrister or attorney.

The Chief County Court Clerk (who is also the Prothonotary of the Court of Queen's Bench, and Clerk of the County Court of Winnipeg) is the officer in charge of the program for the entire province.

The clerk and his deputies are the signing officers of the Court — in other words these officers are authorized by the provisions of The County Courts Act and County Courts Rules to issue various legal documents on instructions from the Court or as required by law or rules of court; e.g., statements of claim, orders, judgments, certificates, cheques from trust accounts, assessment of fees and taxation of costs upon entry of judgments, etc., under their signature and the Seal of the Court.

Program Information and Description of Operations

"There shall be in and for every County Court District a court of record to be called: 'County Court of (naming the County Court District)'". In s.3 of The County Courts Act, County Courts are declared to be **Courts of Record**. They have not only expressed, but also implied powers, such as to order repayment into court of money wrongfully paid out and to commit for contempt.

They are inferior courts of limited statutory jurisdiction. A County Court is purely a statutory court and has no inherent jurisdiction such as can be exercised by the Court of Queen's Bench at common law.

The County Courts Act is divided into two parts — Part I dealing with the general jurisdiction of the Court and Part II establishing "small claims" jurisdiction.

County Courts have only the jurisdiction which statutes give them.

Under Part I of The County Courts Act, the Court has jurisdiction in actions arising out of contract, expressed or implied, personal actions of tort, recovery of personal property, garnishment proceedings, attachment proceedings, actions of trespass or injury to land, dissolution of partnerships, etc. The Court now has an unlimited monetary jurisdiction except that, where a claim exceeds, or may result in a judgment for, more than $10,000.00, any party may apply to have the action transferred to the Queen's Bench as of right.

Some of the statutes conferring jurisdiction upon the County Courts are: The Mechanics' Liens Act, The Married Women's Property Act, The Mental Deficiency Act, The Dower Act, The Family Maintenance Act, etc.

Also, some statutes confer appellate jurisdiction upon the County Courts, such as the Summary Convictions Act, Highway Traffic Act, Public Schools Act, Payment of Wages Act, Animal Husbandry Act, various statutes dealing with elections, etc.

Today the County Courts have different branches within its own Court. They are as follows:

1) **County Courts Act — Part I**

I have above covered the jurisdiction and statutes that are handled under this Part of the Act.

Under this Part, the clerk or his deputies will sign and issue statements of claim, garnishing orders, executions, certificates, assess fees and tax costs for entry of judgments. They are responsible for proper payment out of Suitor's Trust Account.

2) **Part II of The County Courts Act** (Small Claims)

This Part of the Act is better known as "Small Claims". Although it is established under The County Courts Act, the name mostly used for this Court is "Small Claims Court".

The main advantages are that the filing procedure is simple, the charges are nominal, and a claimant may have his claim processed without the expense of hiring a lawyer.

Small Claims Court basically brings the two parties involved in a dispute face to face to resolve a problem in a court setting.

No claim can exceed $1,000.00. It can be for a debt (such as for goods or services, loans, rent arrears, etc.); or for damages (such as motor vehicle accident claims).

The clerk and some of his deputies have been appointed to hear and process claims under this section of the Act, and pass judgment in a summary manner. Manitoba is the only province that has clerks hear the claims rather than lawyers.

Once a decision is rendered, it may be filed as a judgment of the Court and enforced in the same manner as a judgment obtained under Part I of the County Courts Act.

3) **Orderly Payment of Debts** (O.P.D.)

O.P.D. is Part X of The Federal Bankruptcy Act.

O.P.D. legislation was adopted in Manitoba on June 1, 1967, and is administered in every County Court in the Province of Manitoba.

The purpose of O.P.D. is to provide a mechanism whereby an individual can consolidate debts when in excessive financial trouble.

O.P.D. is open to anyone who qualifies at any income level, and there is no maximum level to the amount of debt. The legislation provides for the debts to be paid in three years; however, the Court may allow a further period if required.

4) **Appeals**

As previously mentioned, some statutes confer appellate jurisdiction upon the County Courts.

Some of the more common appeals are:

a) **Small Claims Appeal**:

Any party aggrieved by a decision of the County Court Clerk or Deputy may appeal to a County Court Judge within thirty days of the making of the decision. The decision of the County Court Judge is final, except on a question of law only.

b) **The Licence Suspension Appeal Board**:

Every person aggrieved by a decision of the appeal board, may, within thirty days of the making of that decision, appeal to a County Court Judge in the district in which the appellant resides. On filing of an appeal, the judge shall fix a date for the hearing of the appeal.

The hearing before the judge is a trial de novo (a complete new hearing), and the decision from the judge is final, and not subject to any further appeal.

c) **Summary Conviction Appeals**:

Appeals are to be filed within thirty days from the date of conviction or sentence, in the County Court of the district where the offence was committed. Appeals may be against conviction, sentence, or both.

Trials de novo may be granted under unusual circumstances, but in most instances the appeal is on the record (appeal judge reads the transcript from the trial in the lower court).

d) **Payment of Wages Act**:

Appeals must be filed within 15 days of the order (made by the Labour Board), usually in the County Court District where the employee resides.

e) **The Rentalsman**:

Appeals must be filed within thirty days of the order, and in the County Court District where the property is situated.

There are many other statutes that provide for appeals to the County Courts, such as: The Public Schools Act, The Education Department Act, The Dental Association Act, The Child Welfare Act, the Licensed Practical Nurses Act, etc.

The clerk or his deputies must file all appeals and ascertain the proper jurisdiction of the Court; ensure that all documents filed with the Court are appropriately and correctly processed; and that all exhibits are received, stored, recorded and produced at the hearing of the appeals.

After the appeals are heard, sentences must be drafted, reports and certificates drawn and registers completed.

5) **Civil Marriages**

In every County Court District, the clerk and some of his deputies are appointed marriage commissioners pursuant to The Marriage Act. The marriages are performed at the Court House or any other premises as mutually agreed upon.

Staff:

In the year 1979 the Queen's Bench and County Court staff in Winnipeg were amalgamated resulting in 50 employees to service 11 Queen's Bench Justices and 14 County Court Judges besides 2 Master-Referees for Court of Queen's Bench.

The country county courts have always enjoyed amalgamation of staff which find 38 persons involved with Court of Queen's Bench, County Court, Provincial Judges Court and Juvenile — Family Court.

With the increase in volume of work load in all courts, it is expected additional Judges and staff will be required in the years ahead.

COURT ROOM PROCEDURE

Instructions to Court Officials

The conduct of the formal proceedings in a court room is the responsibility of the presiding judge.

In some places, for example The Pas, it is feasible to rely on the Sheriff to take a responsibility in connection with such proceedings comparable to that of a Court Clerk in connection with similar proceedings in the City of Winnipeg. In other places, the Sheriff does not undertake such responsibilities in The Court of Queen's Bench, or, even if he does, sittings are so infrequent that it is for that reason not feasible to rely on the Sheriff. For hearings in such places, the Deputy Clerk of Crown Pleas is responsible for providing such services by an official who will be designated the Court Clerk for the sittings.

For all hearings, the Prothonotary or designate will provide the services of an official who will be called the Court Clerk and who, under the judge, will be responsible for proceedings in the court room.

To enable the presiding judge to conduct the proceedings in the court room in an efficient and dignified manner, it is necessary that each of the various officials be fully aware of his own and each other's duties and responsibilities so that he may cooperate with the presiding judge.

The following information is detailed for the purpose of assisting to this end and to ensure that there is a degree of uniformity in the conduct of proceedings in this Court throughout the Province of Manitoba.

The information is sufficient to meet any normal situation and sufficient to serve as a basis from which officials can determine what is necessary to cope with any unusual situation.

In the balance of these instructions, the word "Sheriff" means the sheriff of the judicial district in which the Court is sitting or his deputy, and the word "Constable" means, according to the circumstances, either a constable or other person who has been designated to act under the Court Clerk Usher for the sitting.

Order of the General Formal Court Room Procedure

At the opening of the Court or the resumption of the Court after a recess or luncheon adjournment, the proceedings shall take place in the following order:

- The Court Clerk or Usher shall call "ORDER" as he enters the court room in front of the Judge;
- all persons in the court room, including the Court Clerk, shall stand and face the bench;
- the Judge, just prior to being seated, will likely bow to the body of the Court and, if so, all present shall return the bow;
- the Judge will then take his seat;
- all present shall take their seats;
- the Court Clerk shall then proclaim the Court open or that it is resumed, as the case may be.

At the close of the Court, or at a recess or adjournment for luncheon, the order shall be as follows:

- the Court Clerk or Usher shall call "ORDER";
- all persons other than the Judge shall stand and, other than the Court Clerk, face the bench;
- the Court Clerk shall then make the closing, recess or luncheon adjournment proclamation, as the case may be; and
- the Judge will then rise and leave the court room preceded by the Court Clerk or Usher.

The Sheriff or Senior Usher

The Court Clerk or Usher is responsible for maintaining order in and about the court room. During the course of a trial the Court Clerk or Usher and his constables shall take steps, inconspicuously and politely, to halt at once any talking, whispering or other unnecessary noise by or between persons in the body of the court room. The Court Clerk, Usher or Constable shall go directly to the offending persons and politely but firmly request that they cease. Only in the most extreme cases should the Court Clerk or Usher call out from his place in the court room. Hand signals shall never be used. A constable stationed outside the door of the court room shall bring to a halt immediately any noise or disturbance that might be heard inside the court room.

The taking of pictures in or about the court house in relation to any matter before the Court is forbidden and the Court Clerk or Usher should warn any person having a camera in his possession against its use in this connection and, if necessary, confiscate it.

Prior to the opening of the Court the Court Clerk or Usher shall ensure that the court room is in a state of readiness. The lighting, heating, and ventilation should be checked. Water pitchers and glasses should be available. The necessary stationery, ink, etc., should be on the Judge's desk and the counsel tables.

No coats, hats or other articles belonging to witnesses or spectators should be allowed to be placed over or upon the seats or railings of the court room in any manner that, in the opinion of the Court Clerk or Usher, would detract from the proper appearance and dignity of the Court.

Prior to the opening of the Court on the first day of a judge's assignment, the Court Clerk or Usher shall ask for the Judge's instructions as to the times when the public are to be forbidden to enter the court room. The Court Clerk or Usher shall so advise the constable stationed outside of the court room and the constable shall see that the instructions are adhered to rigidly. It is equally important, however, that the constable permit any respectably dressed adult to enter the court room at those times not forbidden. A constable stationed inside the court room shall usher persons entering the court room into the available seats as quickly and quietly as possible. When all seats are occupied, no person shall be permitted to enter.

At the time fixed for the commencement of a sittings, or resumption of a sittings after a luncheon adjournment or recess, the Court Clerk or Usher shall attend upon the Judge to escort him to the court room.

When the Judge is ready, the Court Clerk or Usher shall precede him into the court room by two or three paces. As soon as the Court Clerk or Usher enters the court room he shall call "ORDER" in a loud, clear voice. All persons in the court room shall rise and remain standing. The constables shall ensure that they do so. The Court Clerk or Usher precedes the Judge until he reaches the stairs leading to the dais. Here the Court Clerk or Usher shall step to one side to permit the Judge to ascend to the bench, the Court Clerk or Usher bowing to the Judge as he passes. He shall then follow the Judge on to the dais, if there is a place for him on the dais. The Court Clerk will make the necessary proclamation and shall then take his seat.

When the Judge announces an adjournment the Court Clerk or Usher shall rise from his seat, call "ORDER", and move to a position to one side of the Judge. After the Court Clerk has made his proclamation he or she shall precede the Judge from the dais to the door of the Judge's chambers, open the door, and step to one side to permit the Judge to pass through the doorway, bowing to the Judge as he passes. He shall then follow the Judge into the room to assist him in any way he requests.

The dignified manner of the Court Clerk or Usher and his constables, and the alertness with which they carry out their assignments in a prime factor in preserving the dignity and efficiency of the Court.

The Court Clerk or Usher shall make certain that all his constables are fully aware of their duties.

In dealing with the public inside, outside, entering and leaving the court room, the Court Clerk or Usher and his constables shall adopt a dignified, firm, but polite manner. It must always be remembered that the public is not being granted a favour in being allowed in the court room. The public is by law entitled to be there and should be treated with courtesy when they are.

The Court Clerk or Usher, and his constables, must always remember that they are neutral in all proceedings before the Court. By facial expressions or other mannerisms they must not create the impression that they agree or disagree with anything said by a witness, judge or counsel. For the same reason, they must not discuss any case with a party to a civil action, a witness or counsel, during recesses or other adjournments. It is inevitable that at such times they may overhear remarks made by the Judge, counsel, witnesses, etc. These remarks shall not be repeated to anyone.

It is most important that the Court Clerk or Usher be properly dressed. The Court Clerk shall be attired in such dress as is required of him when attending a sitting of the Superior Court of the Province. The Usher shall wear black shoes, and dark grey-striped trousers of conservative pattern; freshly laundered white shirt, wing colar, and white bow tie.

The Court Clerk

In this session, "Court Clerk" means the official of the Court or other person assigned by the Prothonotary to officiate at a particular sitting of the Court. (If no official of the Court is available, the Prothonotary may, subject to the approval of the Court, designate a person who has qualifications satisfactory to the Court, whether or not he has been appointed as an officer, as a Court Clerk for the sitting.)

It is most important to the maintenance of dignity in the court room that the Court Clerk be properly dressed. Unless the presiding judge exempts him from the requirement for special reason, he shall wear black shoes and dark greay-striped trousers of conservative pattern; freshly laundered white shirt, wing collar and white bow tie, a properly fitted barrister's black waist coat and gown. When the Court Clerk is a femal she shall, subject to the same exception, wear a dark grey or black shirt; a white jabot or bib, a barrister's black waistcoat and gown. The Court Clerk shall always bear in mind that the collar and bow tie, jabot and bib, waistcoat and gown are parts of a complete ensemble no part of which should be worn separately outside of the privacy of his office.

The Court Clerk, properly attired, shall be in the court room each day at least fifteen minutes before the Court is scheduled to commence. He or she shall make a thorough check to ascertain that he has in his possession all necessary records, exhibits, examinations for discovery, commission evidence, etc., as the case may be. He shall obtain on a counsel slip (see Appendix "A") the names of all counsel appearing in each case.

The counsel slip and the record for the case that is to be heard at the commencement of the day's sitting, together with a list of the cases of the whole sittings, if more than one has been set down, shall be placed on the Judge's desk.

The Court Clerk shall keep a book containing the minutes of the proceedings in the Court. A sample page from a minute book is shown in Appendix "B". The minutes MUST be made at the time the proceeding takes place. The keeping of the minutes on sheets of paper for recopying into the minute book at a later date is not permitted. In this connection, among other things, it should be noted that if the minutes are not made at the time when the proceeding takes place the Court Clerk will be in extreme difficulty if he is called upon to swear or certify to the accuracy of the minutes at some later date.

When a direction is given by the presiding judge that an amendment be made to any of the material before the Court, the Court Clerk shall make a note of the fact in the minute book and make the amendment at the earliest opportunity. If the amendment is such that it cannot be made immediately, it must be made at the first recess of adjournment. All amendments shall be printed neatly in red ink. If a typewritten slip of paper containing the amendment is supplied to the Court Clerk, he shall affix it firmly in its proper place and underline it in red ink. The Court clerk shall endorse the amended document "Amended this day of 19 pursuant to the order of the Honourable Mr. Justice". The endorsement made at this hearing shall be signed by the Prothonotary (Deputy Clerk of Crown Pleas).

When counsel at a trial has obtained leave of the presiding judge to file an exhibit, he should hand the exhibit to the Court Clerk immediately. If he does not do so the Court Clerk shall obtain the exhibit from counsel without causing unreasonable interruption of the proceedings. When the Court Clerk does obtain the exhibit number, the Court Clerk shall ask, "May this be exhibit My Lord?". With a pen in figures at least ½ inch in height the Court Clerk shall inscribe the letter, number, or letter and number, in an appropriate place on the exhibit, and with the rubber stamp (Exhibit) stamp the exhibit in a location where no part of the exhibit will be obliterated, complete the stamp, and record it on his exhibit list (Exhibit I). If the exhibit

is of such a nature, e.g., clothing, machinery, etc., that marking it in the manner described is impossible, or impractical, the inscription and stamp shall be placed on a cardboard tag and the tag fastened securely to the exhibit.

When the judge permits a potential exhibit to be physically placed in the Court record before it has been admitted into evidence so that it may be used for some purpose in the meantime, it shall be marked for identification as "Exhibit A for identification" in the case of the first one, and similarly in the case of any subsequent ones. When such a document is finally admitted into evidence, the Judge will then allot it the number, and that should be allocated to it as having been admitted at that time in accordance with the method of marking exhibits and the document should be marked, stamped and added to the exhibit list. If such a document is never admitted into evidence, it shall remain in the custody of the Court with the documents that have been admitted as exhibits until the final disposition of the exhibits.

During a trial the Court Clerk is responsible for the exhibits and he must take every step possible to ensure that he has custody and control of them at all times. If the handling of the exhibits by the Court Clerk becomes difficult because of their quantity or bulk, the Court Clerk or Usher shall delegate a constable (or another Court Clerk) to assist as and when required. Unless the Judge specifically directs, neither counsel nor any other person may take any exhibit out of the possession of the Court Clerk during a recess, an adjournment, or at any other time.

The importance of the neatness and accuracy in the keeping of the minutes and in the marking and listing of the exhibits cannot be emphasized too strongly. In many instances the minute book is the only record in existence of certain proceedings that transpired in the Court, and the exhibit list the only record of the ownership of valuable exhibits.

The Court Clerk must always remember that he is a neutral in all proceedings before the Court. By facial expressions or other mannerisms he must not create the impression that he agrees or disagrees with anything said by a witness, judge, counsel, etc. For the same reason he should not discuss any case with a party to a civil action, a witness or counsel during recesses or other adjournments. It is inevitable that on occasions during a recess or adjournment the Court Clerk may overhear remarks made by the Judge, counsel, witnesses, etc. These remarks must never be repeated to anyone.

General Proclamations by Court Clerk

At opening of this Court:—

"The Court of Queen's Bench is now in session.
The Honourable Mr. Justice presiding." OR
"The County Court is now in session.
His Honour Judge presiding."

Interim Proclamations

(a) **Exclusion of Witnesses:-**

"By direction of His Lordship (or His Honour) all witnesses in this case with the exception of .....

are to be excluded from the court room until called. If you are being called as a witness you will leave the court room at this time and take your place in the witness room (or 'at some convenient place near the court room' if there is no witness room) and be available to come to the court room when required. While waiting to be called, you will not attempt to communicate in any way with any witness who has previously testified in this case."

(b) **Recess:**

Where the presiding judge has ordered a recess.
"The Court will recess for ..... minutes."
After the judge has returned to the court room.
"The Court is now in session."

(c) **Luncheon Adjournment:-**

When the presiding judge has ordered an adjournment for luncheon.
"The Court stands adjourned until ..... o'clock."
At the end of the luncheon adjournment and after the judge has returned to the court room.
Court Clerk to Court:
"The Court is now in session."

(d) **Closing of Court for the Day:-**

"The Court stands adjourned until (Tuesday) morning at (ten) o'clock."

(e) **Closing of Court at end of Sittings:-**

"This sitting of the court is now concluded."

Oaths to be Administered

Proper administration of the oath to a witness is a duty of the Court Clerk and is of the utmost importance.

The Court Clerk shall always bear in mind that most witnesses are extremely nervous. An efficient Court Clerk may very often allay such nervousness by the manner in which he asks for the witnesses name and administers the oath. A witness must never be made to feel uneasy or be allowed to get the impression that he is being "bullied" by the actions, looks or words of the Court Clerk, Sheriff, Constables, etc.

After a witness is in the witness box and before he is sworn, the Court Clerk shall ask him for his name in full. If his name is not a simple, common name, or is one that may be spelled in more than one way, the Court Clerk shall ask the witness to spell the name. When the Court Clerk is certain that the Judge and the Court Reporter have recorded the name, he shall proceed to administer the oath. A witness may be sworn in such form and with such ceremony as he may declare to be binding. Where it becomes necessary to administer a form of oath not included in this instruction, the Court Clerk shall be guided by the instructions of the presiding judge.

Many witnesses, because of their nervousness or unfamiliarity with the English Language, may have difficulty in understanding the words of an oath that is administered to them too rapidly. Thus the Court Clerk must strive to develop his delivery of the oath to point where no misunderstanding is possible. It should be administered clearly, slowly, and with dignity and emphasis.

The Witness should be standing while the oath is being administered unless the Judge otherwise directs, and, where applicable, should be holding the Book in the right hand. Witnesses who appear in the witness box wearing gloves should be asked politely to remove the right glove.

Civil Court

Court Clerk to Witness:-

"You swear the evidence you shall give to this Court, touching upon the matters in question shall be the truth, the whole truth, and nothing but the truth, SO HELP YOU GOD."

Affirmation by Witness:-

When the witness objects to the taking of any oath because of religious scruples he may make an affirmation.

"You do solemnly, sincerely and truly declare and affirm that the evidence you shall give to this Court, shall be the truth, the whole truth, and nothing but the truth."

Oath of Juror:-

(Read style of Cause to juror) You shall well and truly try the issue joined between the parties hereto and a true verdict give according to the evidence, SO HELP YOU GOD.

Oath of Witness:-

The evidence you shall give to this Court and jury touching upon the matters in question shall be the truth, the whole truth, and nothing but the truth, SO HELP YOU GOD.

Jury Returns:-

(Call the Roll, then say) Members of the Jury, have you agreed upon your verdict, if so, who shall speak for you? How say you? (record the verdict and have Judge sign same, then say) Members of the Jury hearken to your verdict as the Court records it, (read verdict) and so say you all.

Jewish Witness:-

When any oath is administered to a Jew, the words "SO HELP YOU JEHOVAH" should be substituted for "SO HELP YOU GOD." The witness should hold the Book opened at the Pentateuch, Ex. c. 20. The head of the witness should be covered while the oath is being administered unless the witness declares himself to be bound by the oath without his head being covered.

Scottish Witness:-

When a witness requests that the Scottish oath be administered to him he should hold up his right hand in lieu of holding the Book.

Court Clerk to Scottish Witness:-

"You swear by Almighty God and as you shall answer to God at the great Day of Judgment that you will speak the truth, the whole truth and nothing but the truth."

Nautical Assessor's Oath:-

"You swear that you will duly and faithfully and to the best of your skill and knowledge advise the Court upon any matters as to which the Court may request your nautical or other technical knowledge, So Help you God."

Verbatim Reporter's Oath:-

"I (A.B.) solemnly and sincerely promise and swear that I will faithfully report the evidence and proceedings in each case in which I act as stenographic reporter. So help me God."

A book shall be kept in each office of the Court where the oath of a reporter may be recorded so that, once a reporter has taken the oath, it will be unneccessary for him to do so again.

To Interpreters

Court Clerk to Interpreter:-

"You swear that you understand the ..... language and the English language, that you shall well and truly interpret the oath(s) to the witness(es) and all questions put to the witness(es) and his (or their) answers thereto, and all such matters and things as shall be required of you, to the best of your skill and understanding, So Help you God."

The Court Clerk shall then instruct the interpreter to ask the witness for his name in full and, unless the presiding judge otherwise indicates, his address and age. The Court Clerk shall record such information in the usual manner and then instruct the interpreter to repeat after him the oath to the witness. The Court Clerk shall administer the oath, pausing after each few words to the witness.

Miscellaneous

Defaulting Witness - Bench Warrant:-

Where a witness does not appear under his subpoena and the presiding judge so directs, the Court Clerk shall call the name of the witness in open court. If he does not answer, the constable stationed at the door of the court room shall step outside the door and call the name of the witness three times. If he does not answer, the constable shall address the Court and report in an audible voice, "NO RESPONSE."

Court Clerk to body of the Court:-

..... come forth and give evidence in ..... against C ..... D ..... pursuant to your subpoena. (The Court Clerk shall repeat this proclamation three times.)

If the witness still does not answer, the Judge may order a bench warrant to be issued. The Court Registrar shall prepare the bench warrant Appendix "F", as applicable, and hand it to the Sheriff of the Judicial District or one of his deputies for execution.

Constables

The Court shall arrange through the Sheriff for the attendance of constables at assizes and special sittings of this Court unless the presiding judge agrees to some other arrangement.

Assize Court

Arraignment:

Prisoner, please stand up: — You stand charged by the name of (Read Charge). How say you — Guilty or Not Guilty? (Endorse plea on the indictment and have Judge sign same) (Then say) Hearken to your plea as the Court records it (Read Plea). Are you ready for your trial?

Calling the Jury:

You good men and women who are returned and impanelled to try the issue joined between our Sovereign Lady the Queen and the Prisoner(s) at the Bar, answer to your name(s) and save your fines.

To the Prisoner:

Prisoner, please stand up: — Prisoner, these good men and women you shall now hear called are the Jurors who are to pass between our Sovereign Lady the Queen, and you upon your trial. If therefore you will challenge them, or any of them, you must challenge them as they come to the book to be sworn, and before they are sworn, and you shall be heard.

Calling Jurors to the Jury Box:-

Members of the Jury as your names are called come forward and take your place in the Jury Box.

Picking the Jury:-

Challenges: Accused

(a) Sentence under 5 years — 4 challenges for each accused.
(b) Capital Murder — 20 challenges.
(c) Other crimes — 12 challenges.

Prosecutor

(1) The procesutor is entitled to challenge four jurors peremptorily, and may direct any number of jurors who are not challenged peremptorily by the accused to stand by until all the jurors have been called who are available for the purpose of trying the indictment.

(2) Notwithstanding subsection (1), the prosecutor may not direct more than forty-eight jurors to stand by unless the presiding judge for special cause to be shown, so orders.

(3) The accused may be called upon to declare whether he challenges a juror peremptorily or for cause before the prosecutor is called upon to declare whether he requires the juror to stand by, or challenges him peremptorily or for cause.

Accused: "Challenges first" Clerk replies "Challenged on behalf of the accused.
Name accused if more than one.
Counsel for accused should say content, if he does challenge.

Prosecution: If prosecution says "stand aside" Clerk will say "Stand aside, on behalf of the Crown."
If both are content swear in witness.
Where there is MORE than one accused — each may make his challenge and is entitled to the same number as if he were being tried alone.

Where as a result of challenges or stand asides panel is exhausted, Clerk will call stand asides in sequence which they were stood aside.

If a full jury cannot be provided the prosecutor may order sheriff to summon forthwith as MANY PERSONS AS THE Court directs. (May be by word of mouth from the hallways).

Oath of Constables:-

You swear that you will keep this Jury in a safe and convenient place and that you will not speak to them yourself, nor permit any other person to speak, or communicate with them, without the permission of this Court, SO HELP YOU GOD.

N.B. Swear in Constables after picking Jury on a Capital Murder.

Jury Returns:-

(Call over the names, then say) Members of the Jury, have you agreed on your verdict, if so, who shall speak for you? How say you, do you find the Prisoner Guilty or Not Guilty? (Write verdict on indictment and have Judge sign same, then say) — Members of the Jury Hearken to your verdict as the Court records it (Read Verdict) and so say you all.

Oath of Interpreter:-

You shall well and truly interpret and explanation make between the Court and the evidence according to the best of your skills and understanding, SO HELP YOU GOD.

Oath of Greek Catholic:-

(Witness to repeat clause by clause) I swear by God Almighty, Father, Son and Holy Ghost, by the Virgin Mary and by all that is Holy, that the evidence I shall give to this Court and Jury sworn, between our Sovereign Lady the Queen and the Prisoner at the Bar, shall be the truth, the whole truth, and nothing but the truth, SO HELP YOU GOD, AMEN.

Chinese Oath:-

(Write the name of the Witness on a piece of paper which he holds in his hands and burns, and the interpretor exclaims) You shall tell the truth, the whole truth and nothing but the truth, or your soul will burn up as the paper has burned.

Another Chinese Oath:-

(A China Saucer is placed in the witness's hand, who then throws it down and breaks it, then the interpreter exclaims) You shall tell the truth, the whole truth and nothing but the truth, or your soul is cracked like this saucer.

N.B. Challenged jurors may not be recalled, to try an accused on that indictment.

CALL 18 jurors originally — When 11 jurors remain in box call 7 more names until 12 jurors are picked.

Procedure to Administer Oath to Juror:-

Court Clerk says: "Juror look at the Prisoner, Prisoner look at the Juror." If no challenge or set aside, Clerk will administer oath.

Oath of the Jury:-

(You do solemnly, sincerely and truly declare and affirm that); You shall well and truly try and true deliverence make between our Sovereign Lady the Queen and the Prisoner at the Bar, whom you shall have in charge, and a true verdict give according to the evidence, (SO HELP YOU GOD).

After 12 Jurors are Picked:-

Members of the Jury, answer to your names as they are called and say "Sworn" if you are sworn.

Giving the Prisoner in Charge:-

Members of the Jury, the Prisoner stands charged by the name of (read charge), upon this charge he (she) has been arraigned and upon his (her) arraignment he (she) has pleaded that he (she) is Not Guilty. Your charge therefore is to enquire whether he (she) be Guilty or Not Guilty and to hearken to the evidence.

Oath to Witness:-

You swear the evidence you shall give to this Court and Jury sworn, between our Sovereign Lady the Queen and the Prisoner at the Bar (and you upon your trial), shall be the truth, the whole truth, and nothing but the truth, SO HELP YOU GOD.

Affirmation:-

You do solemnly, sincerely and truly declare and affirm that the evidence you shall give to this Court and Jury sworn, between our Sovereign Lady the Queen and the Prisoner at the Bar (and you upon your trial), shall be the truth, the whole truth, and nothing but the truth.

Voir Dire:-

You swear the evidence you shall give to this Court touching the issue in question, in this trial within a trial, shall be the truth, the whole truth, and nothing but the truth, SO HELP YOU GOD.

Insanity Trial

No Warning to the Accused:-

His Lordship advises the Clerk to select 12 Jurors and swear each one individually after the 12 Jurors have been selected. His Lordship addresses the Jury and outlines the case.

Oath to Juror:-

You shall well and truly try the issue whether (name) the accused who stands charged for an indictable offence, is or is not, now on account of insanity unfit to stand trial, and a true verdict give according to the evidence, SO HELP YOU GOD.

Oath of Witness:-

You swear the evidence you shall give to this Court and Jury sworn, to try the issue whether the accused (name) is, or is not now, on account of insanity, unfit to stand his trial, shall be the truth, the whole truth, and nothing but the truth, SO HELP YOU GOD.

Return of the Jury:-

(Roll Call of Jury) Members of the Jury, have you agreed on your verdict, if so, who shall speak for you? How say you, do you find the accused (name) fit to stand trial? (record verdict, then say) Members of the Jury, hearken to your verdict as the Court records it, you the Jury find the accused (name), (fit or unfit) to stand his trial, and so say you all.

Proclamations

Opening: Of Assize:-

All manner of persons having anything to do with the sittings of Her Majesty's Court of Queen's Bench, for the Eastern Judicial District of Manitoba, may now draw near, give your attendance and they shall be heard. GOD SAVE THE QUEEN.

Adjournment:-

All manner of persons having anything further to do with the sittings of Her Majesty's Court of Queen's Bench for the Eastern Judicial District of Manitoba, may now retire and give their further attendance tomorrow morning at .....
GOD SAVE THE QUEEN.

Challenge for Cause of Juror

Oath of Jury:-

You shall well and truly try whether (name of Juror objected to) stands indifferent between the Queen and the Accused and a true verdict give according to the evidence, SO HELP YOU GOD.

Oath to Juror Being Tried:-

You shall true answer make to all such questions as this Court shall demand of you, SO HELP YOU GOD.

County Court Judge's Criminal Court

Speedy Trials

Arraignment:-

Prisoner, please stand up: — You stand charged by the name of (Read Charge). How say you — Guilty or Not Guilty? (Endorse plea on the indictment and have Judge sign same) (then say) Hearken to your plea as the Court records it (Read Plea). Are you ready for your trial?

Exclusion of Witnesses:-

Any witness giving evidence at this trial please wait outside the Courtroom until your name is called.

Oath of Witness:-

You swear the evidence you shall give to this Court between our Sovereign Lady the Queen and the Prisoner at the Bar, (and you upon your trial) Shall be the truth, the whole truth, and nothing but the truth. SO HELP YOU GOD.

Affirmation:-

You do solemnly, sincerely and truly declare and affirm that the evidence you shall give to this Court between our Sovereign Lady the Queen and the Prisoner at the Bar, (and you upon your trial) shall be the truth, the whole truth, and nothing but the truth.

Closing of Assize:-

Hear Ye: Hear Ye: Hear Ye: All manner of persons having anything to do with the sittings of Her Majesty's County Court Judge's Criminal Court for the Eastern Judicial District of Manitoba may now depart and this Court is closed. GOD SAVE THE QUEEN.

COURT RECORD BOOK EXAMPLES

Uncontested Divorce

Monday, the day of 1978

MR. JUSTICE WILSON

JONES)
12670 DP) Decree Nisi
JONES)

BOB ROSE *REPORTER*

John Doe for the Petitioner

Respondent present but not represented by Counsel.

Ex. 1. C.D.R. Certificate: filed by Petitioner
Jane Jones - Sworn

Ex. 2. Department Marriage Certificate filed by Petitioner

Ex. 3. Affidavit of Service (Photo) filed by Petitioner

Ex. 4. Separation Agreement dated May 4/75 filed by Petitioner
Bob Brown - Sworn

Decree Nisi 3 months

Custody of children to Petitioner. Maintenance of $150.00 per month for Petitioner and children. Costs against the Respondent of $150.00 including disbursements. Silent as to access.

Clerk _____

DECREE ABSOLUTE
Granted this _____day of _____19_____
_____ J.

Counsel Slip

Style of Cause

_____

(Crown
For(Plaintiff
(Applicant

_____

(Accused
For(Defendent
(Respondent

Reporter: Clerk:

_____

Contested Divorce - (Contesting Pleadings to be Withdrawn)

Monday, the _____day of _____1978

MR. JUSTICE
WILSON

JONES)
12670 DP) Decree Nisi
JONES)

BOB ROSE
REPORTER

John Doe for the Petitioner
Jane Doe for the Respondent
All parties present.

Ex. 1. C.D.R. Certificate filed by Petitioner Counsel for the respondent moves for permission to Withdraw the Answer and Counter-Petition.
Court allows the Answer Counter-Petition to be Withdrawn.

James Jones - **Sworn**

Ex. 2. Department Marriage Certificate filed by Petitioner.
Order to Amend Par. 3G to read 1938.

Ex. 3. Separation Agreement dated May 4/75 filed by Petitioner.

Decree Nisi 3 months

Clerk _____

Civil Case - Contested Divorce

Monday, October 31st, 1977

MR. JUSTICE
WRIGHT
BOB ROSE
REPORTER

JONES	JOHN DOE FOR	PLAINTIFF (PETITIONER)
1213/77 VS		
SMITH	JANE DOE FOR	DEFENDANT (RESPONDENT)

10:00	Court commences	
	Mr. Sinclair moves to amend claim	
	Mr. Waddell consents	
	Granted	
10:05	Mr. Bert Jones	**Sworn**
	Exam chief by	J. Sinclair
10:30	Cross Exam by	G. Waddell
12:00	Court adjourned till 2:00 P.M.	
2:00	Court resumes: Mrs. Joan Smith	**Sworn**
	Exam chief by	J. Sinclair
Ex. 1.	Letter by Smith to auto-pac dated June 3/76 - Plaintiff	
Ex. 2.	Accident report dated May 3/76 - Plaintiff	
2:40	Recess	
3:00	Court resumes	

3:30	Cross Exam. by	G. Waddell
4:30	Court adjourned until Tuesday, Nov. 1/77 at 9:00 A.M.	

Tuesday, November 1st, 1977

9:00	Court commences
9:01	Mr. Sinclair presents argument
9:45	Mr. Waddell presents argument
10:30	Judgment reserved

Friday, November 4th, 1977

10:00 Judgment

Judgment in favour Plaintiff
General Damages $1,000.00
Special Damages $1,250.00
Costs $500.00 all inclusive

OR

Decree Nisi 3 months
Custody of children to the Petitioner - maintenance of $150.00 per month for the wife and children and costs fixed in the amount of $150.00 including disbursements.

M.M. Hrychuk, Clerk

NOTE:

Refer to contested divorce (contested pleading to be withdrawn) page 24 for proper wording pertaining to filing exhibits, amendments etc. in divorces.

Assize Court

Tuesday, November 22nd, 1977

MR. JUSTICE HEWAK	QUEEN)	D. Abra for the Crown
	VS)	
HINTER *REPORTER*	DAVID GEORGE McKENZIE)	R. Wolson and U. Goeres for the Accused

On Friday, November 4, 1977 the accused re-elected to stand trial by Queen's Bench judge alone. Prisoner surrenders to Court. Court commences upon being *arraigned* on *November 4, 1977* the accused plead:

Count 1 - not guilty
Count 2 - not guilty
Count 3 - not guilty
Count 4 - not guilty

Pleas recorded and verified. The accused appears to be unable to proceed today. In chambers, His Lordship orders the accused to hospital to be examined. Matter to be continued tomorrow.

K.G. McRae,
Clerk

Wednesday, November 23rd, 1977

10:00	Court commences Mr. Abra requests amendment to Count 3 of indictment. Mr. Wolson agrees. ALLOWED. Amend Count 3 - "Jane *Mann*", should read "Jane *Mah*".	
Ex. 1.	Statement of agreed facts filed by Crown	
Ex. 2.	Magazine containing bullets	
Ex. 3.	Vial containing spent 22 cal. cartridge Mr. Abra advises he will begin with a Voir Dire.	
	VOIR DIRE	
10:09	*Thomas Joe Wingate (Const.)* Exam in chief by Abra	Sworn
10:21	Cross exam by Wolson	
10:31	*Robert Alfred Charles Cormack (Const.)* Exam in chief by Abra	Sworn
Ex. 4.	12 guage shotgun filed by Crown	
Ex. 5.	One 22 cal. shotgun shell filed by Crown	
Ex. 6.	Three boxes plus loose shells of 22 cal. ammunition - filed by Crown	
10:43	Cross exam by Wolson	
10:57	*Gerald Allan Epp (Const.)* Exam in chief by Abra	Sworn
11:02	Cross exam by Wolson	
11:07	*Gerald Donald Pope (Const.)* Exam in chief by Abra	Sworn

11:10	Cross exam by Wolson	
11:13	Witness excused while counsel discuss preliminary transcript.	
11:15	***Witness recalled***	
	Cross exam continued by Wolson	
11:25	Re examination by Abra	
11:26	Court recess	
11:38	Court resumes	
11:40	*Wade Peter Warwayk (Const.)*	**Sworn**
	Exam in chief by Abra	
Ex. A. *(for Ident.)*	Statement of accused filed by Crown	
12:15	Court adjourned until 2:00 P.M. today	
2:02	Court reconvenes	
	Wade Peter Warwayk - On Stand under Oath	
	Cross exam by Wolson	
2:40	His Lordship questions witness	
2:48	Further examination by Wolson	
2:50	Further examination by Abra	
2:52	*Edward Arthur Paulisyn (Const.)*	**Sworn**
	Exam in chief by Abra	
3:10	Cross exam by Wolson	
3:30	Court recess	
3:46	Court resumes	
3:47	*Robert Roland Paquin (Det.)*	**Sworn**
	Exam in chief by Abra	
3:53	Court recess	
3:57	Court resumes	
	Submission re conversation between accused and Det. Paquin.	
	Discussion between Counsel and His Lordship re conversation between accused and Det. Paquin	
4:17	*Det. Paquin — Recalled under Oath*	
	VOIR DIRE	
	RECONVERSATION	
	Exam in chief cont'd by Abra	
4:23	Cross exam by Wolson	
4:36	*Case for Crown on Voir Dire complete*	
4:38	Court adjourned until 10:00 A.M. tomorrow	

K.G. McRae

Thursday, November 24th, 1977

10:02	Court commences	
10:03	*David George McKenzie*	
	Exam in chief by Wolson	**Sworn**
10:21	Cross exam by Abra	
11:05	His Lordship questions witness	

11:24	*Case for Defence on Voir Dire complete*
11:25	Court recess
11:40	Court resumes Crown is calling no rebuttal evidence on Voir Dire
11:41	Submission by Mr. Wolson on Voir Dire
12:05	His Lordship doesn't want to hear from Crown
12:06	His Lordship sums up and gives decision (1) Statement of accused ruled voluntary. Crown's evidence given on Voir Dire to be admitted as evidence in the trial. (2) Conversation between Det. Paquin and accused ruled voluntary.
Ex. 7.	
(formerly Ex. A.)	Statement of accused filed by Crown
12:21	Court adjourned until 2:00 P.M. today
2:05	Court reconvenes
2:06	*Edward Arthur Paulishyn - Recalled under Oath* Exam in chief by Abra Evidence of accused given on Voir Dire is to be evidence only on Voir Dire and not in the trial
2:10	Cross Exam by Goeres
2:12	His Lordship questions witness
2:14	Further questioning by Goeres
2:15	*Maureen Ann Blyth* **Sworn** Exam in chief by Abra
Ex. B.	
(for ident.)	Vial labelled morpheine SO4 grs. ½ - filed by Crown
2:36	Cross exam by Goeres
2:40	*Cheryl Marynowski* **Sworn** Exam in chief by Abra
Ex. C.	
(for ident.)	Westminister Motor Hotel check-in cards by Crown Cross exam by Goeres
2:53	*Terry Jason* **Sworn** Exam in chief by Abra
3:06	Cross exam by Goeres
Ex. 8	
(formerly B & C)	Westminister Motor Hotel check-in cards - Crown
3:15	*Gregory Alexander John Kurdydyk (Det.)* **Sworn** Exam in chief by Abra
3:18	Cross exam by Wolson
3:20	*Lorn Huff (Det.)* **Sworn** Exam in chief by Abra
3:22	No cross exam by Wolson
3:25	Court recess
3:40	Court resumes
3:41	*Robert William Nieman* **Sworn** Exam in chief by Abra

3:59	Cross exam by Wolson
4:02	His Lordship questions witness
4:05	Mr. Abra addresses the Court re further evidence Mr. Wolson addresses the court re a matter tomorrow morning
4:09	Court adjourned until 9:00 A.M. tomorrow. Kris McRae, Clerk

Friday, November 25th, 1977

9:01	Court commences
9:02	*Charles Neil Guberman* **Sworn** Exam in chief by Abra
9:09	Cross exam by Wolson
9:10	*Kasmir Kenneth Solenski* **Sworn** Exam in chief by Abra
9:13	Cross exam by Wolson
9:14	*Edward Arthur Paulishyn - Recalled under Oath* Exam in chief by Abra
9:20	Cross exam by Wolson
9:22	Re examination by Abra
9:23	*Case for Crown complete* Mr. Wolson requests that the accused's evidence on the Voir Dire be applied as evidence for the defence in the trial. GRANTED. Defence is calling no further evidence.
9:25	Argument by Mr. Wolson
9:31	Argument by Mr. Abra
9:45	His Lordship sums up and gives *Verdict* *Count 1* - Guilty *Count 2* - Guilty *Count 3* - Guilty *Count 4* - Guilty
9:55	Verdict recorded and verified. Mr. Wolson requests an adjournment before sentencing. Court adjourned until *December 12, 1977 at 9:30 A.M. for sentencing.* Kris McRae, Clerk

Monday, December 12th, 1977

9:55	Court commences
9:56	Mr. Abra moves to sentence
10:02	Mr. Wolson speaks to sentence
10:13	His Lordship sums up and pronounces: *SENTENCE* I sentence you to a term of three years in a penitentiary on each of Count 1, 2, 3 and 4 — Counts 2, 3 and 4 to be served concurrently with Count 1. N. Popadynetz, Clerk

County Court Judges' Criminal Court

Wednesday, April 6th, 1977

COLEMAN J. *JUDGE*	QUEEN	)	J. MacDonald for the Crown
	vs	)	
L. PAUL *REPORTER*	IRVINE HAROLD WATSON		P. Schwartz and T. Beley for the Accused

10:00 Court commences
Prisoner surrenders to the Court. Upon *being arraigned March 8, 1977* the prisoner plead:
Count 1 - Not guilty
Count 2 - Not guilty
Pleas recorded and verified. Mr. MacDonald requests amendment to indictment. *Granted.*
Harold Irvine Watson should read Irvin Harold Watson.
Mr. MacDonald requests further amendment to Count 1 of indictment.
Mr. Schwartz objects to amendment.
Discussion between Court and Counsel re amendment to Count 1.
An :ndment Granted - Count 1 "an imitation of" - words to be added after the word "possession".
Rerraignment on Amended Indictment
Count 1 - Not guilty
Count 2 - Not guilty
Pleas recorded and verified.

10:15 *Stanley Gerard Smyth (Const.)* **Sworn**
Exam in chief by MacDonald

Ex. A.
(for identification) Black starting pistol - Crown

Ex. B.
(for identfitication) 4 caps (2 live and 2 expended) - Crown Cross exam by Schwartz

10:21

10:26 *David Reid Ferguson* **Sworn**
Exam in chief by MacDonald
Cross exam by Schwartz

11:00 Recess

11:12 Court Commences

11:13 *Tony Ray Gregory* **Sworn**
Exam in chief by MacDonald

Ex. 1 Drawing of Westminister Hotel filed by Crown
11:20 Cross exam by Schwartz

11:30 *Stuart James Adams* **Sworn**
Exam in chief by MacDonald

11:35 Cross exam by Schwartz

11:40 *Gordon Clifford Park (Const.)* **Sworn**
Exam in chief by MacDonald

Ex. C.	Statement of accused by Crown. Mr. Schwartz admits the statement was given voluntarily.
	VOIR DIRE
	Evidence given on Voir Dire will apply to the trial evidence.
	Exam in chief continued by MacDonald
Ex. 2.	
(formerly Ex. C.)	Statement of accused filed by Crown
11:50	Cross exam by Schwartz
11:54	*Douglas Charles Anderson (Const.)* **Sworn** Exam in chief by MacDonald
Ex. 3.	
(Formerly Ex. A.)	
(for identification)	Black starting pistol filed by Crown
Ex. 4.	
(Formerly Ex. B.)	
(for identification)	4 Caps (2 live and 2 expended) by Crown
11:59	Cross exam by Schwartz
12:03	Case for the Crown complete. Defence is calling no evidence.
12:05	Recess
12:11	Court resumes Argument by Mr. MacDonald
12:14	Argument by Mr. Schwartz
12:31	His Honor sums up and gives *Verdict* *Count 1* - Guilty *Count 2* - Stay of Proceedings Verdicts recorded and verified.
12:35	Presentence requests presentence report.
12:37	Mr. MacDonald advises accused has only one previous conviction in 1946. His Honor considers the accused as a first offender. Mr. Schwartz withdraws request for a presentence report. Mr. MacDonald moves to sentencing.
12:40	Mr. Schwartz speaks to Sentencing.
12:45	His Honor sums up and gives *Sentence* I suspend the passing of sentence on you for a period of one year on the condition that (1) you keep the peace and be of good behavior and appear before the Court when required to do so by the Court; (2) you immediately dispose of any type of weapon, imitation or otherwise. It is ordered by this Court that exhibits #3 and #4 be destroyed.
1:00	Court adjourned.

Kristina Galminas,
Clerk

SMALL CLAIMS COURT PROCEDURE

The Small Claims Court is designed to hear claims involving amounts not exceeding $1,000.00. It has jurisdiction only in the Province of Manitoba.

The procedure is simplified and a claimant may have his claim processed without the expense of hiring a lawyer. Claims must be filed in the district where the cause of action arose or where the Defendant resides or carries on business.

In general, the Small Claims Court can deal with claims for debt, claims for damages (such as motor vehicle accident claims), claims for rent arrears or for damages to rented premises, and claims arising out of contract. In no case can the amount of the claim exceed $1,000.00.

Certain types of claims cannot be dealt with in the Small Claims Court. These include claims which involve the title of land, claims arising out of the Will of a deceased person, claims for the recovery of goods and claims against business in receivership.

For the exact wording of the law see the Revised Statutes Manitoba, County Courts Act Part II.

Before you can file a claim you will need certain information:

1) You must have the names and addresses of the other person or persons involved.

2) If the other party is a firm or partnership, you must have the names and addresses of the owner or partners. If the other party is a corporation, you must have the names and address of the officers, directors, or manager of the corporation. This information can be obtained at the Corporations Branch, 10th floor, 405 Broadway, Winnipeg, Manitoba.

3) You must have the names and addresses of any people you wish to have appear in court as witnesses.

When filing your claim the clerk will:

1) Ask you to briefly outline the nature of your claim.

2) Determine if your claim is one that can be dealt with in Small Claims Court.

3) Have you prepare claim forms.

Number of copies to prepare

Claim against 1 person or a company 3 copies, claim against 2 parties — 4 copies.

Note: Add another copy for each additional defendant.

Claims involving rent or damages caused by a tenant, prepare an extra copy for the Rentalsman's office.

Claims involving car accidents, prepare an extra copy for Autopac.

Claims against infants (pesons under 18 years) prepare 2 extra copies.

When filing your claim the clerk will:

4) File all documents necessary for you to have yourself and the other party brought to court for the hearing.

5) Set a time, place and date for the hearing.

6) Explain how to serve your claim on the other party.

7) Answer any questions you may have.

There is a charge of $5.00 to file your claim.

In most cases the claim will be heard and determined by a Clerk of the Court rather than a Judge. **WHEN YOU APPEAR FOR YOUR HEARING YOU ARE RESPONSIBLE FOR PROVING YOUR CASE. IT WILL BE NECESSARY FOR YOU TO PRODUCE ALL RELEVANT EVIDENCE, I.E. LETTERS, CONTRACTS, CANCELLED CHEQUES, INVOICES OR STATEMENTS OF ACCOUNT, AND MOST IMPORTANTLY ALL AVAILABLE WITNESSES.**

SMALL CLAIMS COURT "DOES NOT" COLLECT MONEY FOR YOU.

After the claim has been heard by the Clerk or Judge, a certificate of decision may be obtained and filed in the appropriate County Court office. When filed, the decision becomes a judgment of the County Court and may be enforced in the usual ways. A garnishing order may be issued attaching wages, bank accounts, rents, etc. a writ of execution may be issued directing the Bailiff to seize and sell the assets of the debtor to satisfy the Judgment. Some debtors are judgment proof and have no assets. IN SUCH CASES YOU MAY NEVER GET YOUR MONEY.

Guide for Serving Statements and Subpoenas

Serve one true copy of the statement on EACH party in one of the following ways:

1) **Person**
   (a) Personal Service-Hand true copy to and leave same with party to be served.

   (b) House Service - Hand true copy to and leave same with a grown up person at the residence of party being served.

   (c) Registered Mail - Mail true copy by registered mail, postage prepaid, addressed to party to be served last known or usual place of abode. Canada Post Office "Acknowledgement of Receipt" form must be attached.

   (d) Certified Mail - Mail true copy by certified mail (certified mail kit may be purchased from Post Office).

(e) Substitutional Service - Serve in such manner as Judge or County Court Clerk may direct.

2) **Partnership** - Serve as above on any member of firm residing or doing business in the County Court District.

3) **Corporation** - Hand to and leave with a director or officer of the corporation at the place where it carries on business, or, — Mail by registered mail, postage prepaid to a director or officer of the corporation at the place where it carries on business. Canada Post Office "Acknowledgement of Receipt" form must be attached or mail by certified mail or serve in such manner as a Judge or County Court Clerk may direct.

4) You will be required to complete affidavit(s) of service after you have served all parties.

CLAIMS MUST BE SERVED WITHIN 30 DAYS FROM DATE OF FILING, if not so served, apply for extension of time at the Small Claims Office.

A SUBPOENA to witness may be served by personal service or registered or certified mail in the above manner.

Please advise the Clerk if you require any further information, assistance, or explanation concerning Small Claims procedure.